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OFFICE OF PETITIONS

In re Application of :
Meir Strahilevitz : DECISION ON PETITION
Application No. 10/743,532 :
Filed: December 22, 2003 :
Attorney Docket No. STRM 5123 D5 :

This is a decision on the petition under 37 CFR 1.53(e) filed April 19, 2004, requesting that the above-identified application be accorded a filing date of December 22, 2003.

The application was deposited on December 22, 2003, without drawings. On April 2, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete," requiring drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawings.

On April 19, 2004, applicant filed the present petition and three sheets of drawings, consisting of Figures 1-6. The specification filed on December 22, 2003, describes drawings containing Figures 1-6. Applicant acknowledges that the application was submitted without the requisite drawings. A search of the official file reveals that on December 22, 2003, a specification was filed, which stated: "This is a division of Serial No. 09/892,037, filed June 26, 2001, which is a division of pending application Serial No. 09/007,599, filed January 15, 1998, now U.S. Patent 6,264,623, which is a division of Serial No. 08/097,378, filed July 23, 1993, now U.S. Patent No. 5,753,227, the disclosures of which are hereby incorporated by reference herein." Applicant asserts that Figures 1-6 of the present application are identical to Figures 1-6 in U.S. Patent No. 6,264,623.

Section 201.06(c) of the Manual for Patent Examining Procedure permits the entering of a portion of the prior application into a continuation or divisional application when the portion of the prior application was inadvertently omitted from the continuation

or divisional application. Based on applicant's representation that Figures 1-6 supplied with the present petition constitute a copy of the prior application papers, and the incorporation by reference statement appearing in the specification deposited on December 22, 2003, it is appropriate, on petition, to accord the application the requested filing date with five sheets of drawings (Figures 1-6).

Accordingly, the petition is **granted**.

The \$130.00 petition fee set forth in 37 CFR 1.17(h) will not be refunded because the petition was not necessitated by USPTO error.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 22, 2003, using the application papers filed on that date and the copy of three sheets of drawings (Figures 1-6) submitted with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

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